<u>REMARKS</u>

Reconsideration of the application is respectfully requested.

Claims 1-5, 9, 11, 14, 15, 18-22, 27, 30, 31, 35, 36, 39, 40, 47-52, 56-59, and 64-66 have been rejected by the Examiner. Claims 12, 13, 28, 29, 37, and 38 have been found to be allowable but for their dependence on rejected base claims. Claims 1-5, 9, 11-15, 18-20, 21-22, 27-30, 31, 35-40, and 56-59 have been amended. No claims have been cancelled. All amendments are fully supported by the original disclosure; no new matter has been introduced. Accordingly, claims 1-5, 9, 11-15, 18-22, 27-31, 35-40, 47-52, 56-59, and 64-66 remain pending in the application.

<u>**Claim Rejections under 35 U.S.C. § 103**</u>

In "Claim Rejections – 35 USC § 103," item 3 on page 2 of the above-identified Office Action, claims 1-5, 9, 11, 14-15, 18-22, 27, 30, 31, 35, 36, 39, 40, 47-52, 56-59, and 64-66 have been rejected as being unpatentable over U.S. Patent Application Publication No. 2002/0002643 A1 to *Yamamoto et al.* (hereinafter "Yamamoto") in view of U.S. Patent No. 6,295,441 to *Björkengren* (hereinafter "Björkengren") in further view of U.S. Patent Publication No. 2001/0004588 A1 to *Hong* (hereinafter "Hong") under 35 U.S.C. § 103(a).

More specifically, the Examiner cites the Morse codes of Yamamoto as teaching the "one or more of the plurality of codes having the shortest lengths representing the user programmable phrases", as recited by claim 1. Applicants respectfully disagree. First, Applicants note that the portion of the claim cited by the Examiner ("shortest lengths *reserved for* the user programmable phrases", pg. 3 of the Office Action) quotes language which has been amended in Applicant's prior response. In the prior response, Applicants acknowledged the ambiguities of "reserved for" and substituted the clearer "representing." Thus, Applicants remarks will be directed to the pending language of claim 1, not the language quoted by the Examiner.

Second, Applicants do not disagree with the Examiner's conclusion that the Morse code of Yamamoto is a "variable length encoding scheme". However, the variable length encoding

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scheme recited by claim 1 has its shortest length codes representing user programmable phrases, the user being able to assign user programmable phrases to those shortest length codes. The Morse code in Yamamoto, in contrast, reserves its shortest length codes for the characters "T" and "E". The lengths are reserved for those characters and the user cannot assign phrases to them. Accordingly the shortest length codes of Yamamoto simply do not represent user programmable phrases. Thus, contrary to the Examiner's assertion, the Morse codes of Yamamoto do not teach or suggest the "one or more of the plurality of codes having the shortest lengths representing the user programmable phrases", as recited by claim 1.

The Examiner does briefly provide a contrary argument on page 3 to the above point, noting that: "Morse code by definition is of variable length, and the vowels have shorter length than the other letters/phrases; see for example code length of vowels "A" and "E" in contrast with letter/phrase "B", "C", "D", "F" in Fig. 15". Even accepting for the sake of argument that the vowel "E" (which, as mentioned, has one of the two shortest length codes) is a phrase (a point which Applicants do not concede), it cannot be a "user programmable phrase" because the user cannot assign it, or any other phrase, to the shortest length code reserved for "E" in Morse Code. As recited by claim 1, the shortest length codes must be codes to which the user can assign phrases. But in Yamamoto, the user has absolutely no ability to assign any phrase or even a letter to the shortest length codes.

Further, on page 4, the Examiner concedes that "Yamamoto/Bjorkengren do not disclose programmable phrases in the format claimed by applicant". The Examiner then cites Figure 3 and paragraph 33 of a new reference, Hong. Hong teaches a mobile device which enables a user to select one of a plurality of SOS/emergency messages which the mobile device then transmits at a frequency which can be detected. In paragraph 33, Hong also notes that a user may instead audibly provide the SOS/emergency message to be sent.

However, even assuming for the sake of argument that selecting or entering a message which is then transmitted somehow suggests assigning that message to a value (a point which Applicants do not concede), it does not teach or suggest that the value is of a code of a variable length encoding scheme. Thus, Hong does not teach a variable length encoding scheme, the shortest length codes of which can be assigned to by a user, and therefore does not cure the deficiencies of Yamamoto and Bjorkengren.

Thus, at best, the combination of Yamamoto, Bjorkengren, and Hong disclose or suggest the disparate teachings of a variable length encoding scheme and a capability for a user to assign phrases to value. This combination does not come close to teaching or suggesting a variable length encoding scheme, the shortest length codes of which can be assigned to by a user, as claimed in claim 1. In fact to achieve the variable length encoding scheme of claim 1, Yamamoto would have to be significantly modified such that it no longer uses Morse codes, which do not allow for user assignment to any codes, much less the shortest length ones. This would destroy the central purpose of Yamamoto, which is providing a method of entering of the well known Morse code. One of ordinary skill simply would not be motivated to modify Yamamoto in such a way as to deprive its invention of the ability to achieve its central purpose.

Further, the Morse code of Yamamoto arguable teaches away from the variable length encoding scheme recited by claim 1. As mentioned, Morse code is in fact incompatible with the addition of user programmable phrases that are assignable to codes. Replacing T and E (which the shortest length codes currently represent) with user programmable phrases requires the create of additional codes for T and E, creating a custom encoding scheme that is neither taught nor suggested by any of the cited prior art references. While such a scheme is contemplated by the instant Application, reliance on the instant Application constitutes impermissible hindsight. Thus, absent some motivation to redefine Morse code disclosed or suggested either by the cited references or the art, the combination is improper.

Accordingly, claim 1 is patentable over Yamamoto, Björkengren, and Hong, alone or in combination, under 35 U.S.C. §103.

Claims 21, 31, 47, 56, and 64 recite limitations similar to those of claim 1. Accordingly, for at least the same reasons, claims 21, 31, 47, 56, and 64 are patentable over Yamamoto, Björkengren, and Hong, alone or in combination, under 35 U.S.C. §103.

Claims 2-5, 9, 11-15, 18-20, 22, 27-30, 35-40, 48-52, 57-59, and 65-66 depend from claims 1, 21, 31, 47, 56, and 64, incorporating their limitations respectively. Accordingly, for at least the same reasons, claims 2-5, 9, 11-15, 18-20, 22, 27-30, 35-40, 48-52, 57-59, and 65-66 are patentable over the cited art under 35 U.S.C. §103.

Allowable Subject Matter

Applicants thank the Examiner for finding claims 13, 14, 29, 29, 37, and 38 but for their dependence on rejected base claims. For the reasons given above, Applicants believe those base claims, as amended, are now allowable. Thus, Applicants respectfully submit that claims 13, 14, 29, 29, 37, and 38 are in condition for allowance by virtue of their dependence from now-allowable claims 1, 21, and 31.

Conclusion

Applicants submit that all pending claims, claims 1-5, 9, 11-15, 18-22, 27-31, 35-40, 47-52, 56-59, and 64-66, are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1513. If any fees are due in connection with this paper, the Commissioner is authorized to charge Deposit Account 500393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

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                                                  Robert C. Peck
                                                Reg. No.: 56,826

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97222
Telephone: 503-222-9981

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